

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

IN RE: **Timothy James Burns**  
**Saskia Burns**  
Debtor(s)

Case No.  
Chapter 13 Proceeding

☐ AMENDED    ☐ MODIFIED  
**DEBTOR(S)' CHAPTER 13 PLAN**  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

*Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).*

*Use of the singular word "Debtor" in this Plan includes the plural where appropriate.*

**Plan Summary**

- A. The Debtor's Plan Payment will be \$600.00 Monthly, paid by ☐ Pay Order or ☒ Direct Pay for 58 months. The gross amount to be paid into the plan is \$34,800.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 13% of each unsecured allowed claim.
- THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.
- C. The value of the Debtor's non-exempt assets is \$0.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

**Plan Provisions**

**I. Vesting of Estate Property**

- ☒ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☐ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

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*Continuation Sheet # 1*

**II. Pre-Confirmation Disbursements**

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

<b>Creditor/Collateral</b>	<b>Pre-Confirmation Payment Amount</b>	<b>Other Treatment Remarks</b>
Ally Financial 2008 Kia Optima	\$105.00	
Wells Fargo Dealer Services 2008 Chevrolet Colorado	\$200.00	

**III. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

<b>Creditor Name</b>	<b>Description of Contract</b>	<b>Election</b>	<b>In Default</b>
Edith Holman	Residential Lease	Assumed	No
Mary	Residential Lease	Assumed	No

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

<b>Creditor Name</b>	<b>Description of Contract</b>	<b>Election</b>	<b>In Default</b>
ADT Security Services	Home Security System	Rejected	No
Online Land Sales LLC	Contract for Deed, purchasing: Whispering Oaks Ranch, Lot 12 6.65 Acres Texas County	Rejected	No

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*Continuation Sheet # 2*

**IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

<b>Creditor / Collateral</b>	<b>Estimated Claim</b>	<b>Value of Collateral</b>	<b>Monthly Payment or Method of Disbursement</b>	<b>Interest Rate</b>	<b>Anticipated Total to Pay</b>	<b>Other Treatment/Remarks</b>
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*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_."*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Joint Debtor

**V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI(2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien--e.g., judicial lien, nonpurchase-money security interest, etc.)

<b>Creditor / Property subject to lien</b>	<b>Amount of Lien to be Avoided</b>	<b>Remarks</b>
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*Continuation Sheet # 3*

**VI. Specific Treatment for Payment of Allowed Claims**

**1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS, INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS**

**A.** Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, **MUST** be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor / Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
Fed Loan Serv		\$27,393.00	
Southwest Stage Funding, LLC		\$40,000.00	\$1,116.00
Us Dept Of Education		\$11,843.00	

**B.** Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered
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**2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

**A.** Administrative Expenses

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums received. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
Davis Law Firm	\$2,890.00	Along With	

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*Continuation Sheet # 4*

**B. Priority Claims, Including Domestic Support Obligation Arrearage Claims**

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
Internal Revenue Service	\$4,911.25	Along With	

**C. Arrearage Claims**

Creditor / Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks

**D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed**

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks

**E. Secured Creditors**

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completing of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks (specifically note if claim amount to be paid although greater than value of collateral)
Ally Financial 2008 Kia Optima	\$6,907.09	\$9,162.50	Variable*	5.25%	\$7,652.53	
Wells Fargo Dealer Services 2008 Chevrolet Colorado	\$12,143.39	\$18,487.50	Variable*	5.25%	\$13,371.93	

**F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed).**

*Describe treatment for the class of general unsecured creditors.*

General Unsecured Creditors will receive approximately 13% of their allowed claims.

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*Continuation Sheet # 5*

**Totals:**

Administrative Claims	<u><b>\$2,890.00</b></u>
Priority Claims	<u><b>\$4,911.25</b></u>
Arrearage Claims	<u><b>\$0.00</b></u>
Cure Claims	<u><b>\$0.00</b></u>
Secured Claims	<u><b>\$19,050.48</b></u>
Unsecured Claims	<u><b>\$18,634.86</b></u>

**VII. Supplemental Plan Provisions**

The following are the Supplemental Plan Provisions:

**Student Loans**

Debtor will pay all student loans directly.

**Secured Claim of National Auto Finance**

For its claim secured by the 2008 Kia Optima, National Auto Finance shall receive disbursements of \$240.00 starting in month 8 and continuing until the claim is paid in full. Prior to month 8, it shall receive adequate protection payments as specified in Section II above.

**Secured Claim of Wells Fargo Dealer Services**

For its claim secured by the 2008 Chevrolet Colorado, Wells Fargo Dealer Services shall receive disbursements of \$450.00 starting in month 8 and continuing until the claim is paid in full. Prior to month 8, it shall receive adequate protection payments as specified in Section II above.

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*Continuation Sheet # 6*

Respectfully submitted this date: 10/6/2014.

**/s/ Evan Simpson**

Evan Simpson  
3925 A S. Jack Kultgen Fwy.  
Waco, TX 76706  
Phone: (254) 399-9977 / Fax: (254) 399-9909  
(Attorney for Debtor)

**/s/ Timothy James Burns**

Timothy James Burns  
709 W. Ave. I #40  
Nolanville, TX 76559  
(Debtor)

**/s/ Saskia Burns**

Saskia Burns  
411 Montrose Street  
Belton, TX 76513  
(Joint Debtor)

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*Joint Debtor*

CHAPTER **13**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on October 6, 2014, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

**/s/ Evan Simpson**

Evan Simpson  
Bar ID:24060612  
Davis Law Firm  
3925 A S. Jack Kultgen Fwy.  
Waco, TX 76706  
(254) 399-9977

AAFES/MIL STAR/EXCHANGE  
xxxxxxxxxxxx1796  
c/o Creditors BK Service  
PO Box 740933  
Dallas, TX 75374

Bank of America  
xxxx-xxxx-xxxx-1334  
P.O. Box 650070  
Dallas, TX 75265

CBE Group  
xxxxx9847  
1309 Technology Pkwy  
Cedar Falls, IA 50613-6976

AAFES/MIL STAR/EXCHANGE  
xxxxxxxxxxxx1088  
c/o Creditors BK Service  
PO Box 740933  
Dallas, TX 75374

Bank of America  
P.O. Box 650070  
Dallas, TX 75265

Credit Collections Srv.  
xxxx0290  
PO Box 9134  
Needham, MA 02494

ADT Security Services  
3190 S. Vaughn Way Ste 150  
Aurora, CO 80014-3537

Capital One, N.a.  
xxxx-xxxx-xxxx-0089  
Capital One Bank (USA) N.A.  
PO Box 30285  
Salt Lake City, UT 84130

Direct TV  
P.O. Box 78626  
Phoenix, Arizona 85062-8626

Ally Financial  
xxxxxxxx6456  
c/o Ally Servicing LLC  
P.O. Box 130424  
Roseville, MN 55113

Capital One, N.a.  
xxxx-xxxx-xxxx-0846  
Capital One Bank (USA) N.A.  
PO Box 30285  
Salt Lake City, UT 84130

Fed Loan Serv  
xxxious  
Po Box 69184  
Harrisburg, PA 17106



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CHAPTER **13**

**CERTIFICATE OF SERVICE**  
(Continuation Sheet #1)

Ft. Hood National Bank  
PO BOX 5000  
Ft. Hood, TX 76544

Law Office of Beard & Lane, P.C.  
12841 Jones Road  
Suite 100  
Houston, TX 77070

Southwest Stage Funding, LLC  
c/o Law Offices of Mel Smith, Esq.  
4201 Cypress Creek Parkway  
Suite 315  
Houston, TX 77068

GECRB/Care Credit  
xxxxxxxxxxxx1801  
PO BOX 965036  
Orlando, FL 32896

Pioneer Mcb  
xxx2441  
P.O. Box 10487  
Kansas City, MO 64171

The Cash Store  
211 Sparta Rd.  
Belton, TX 76513

Gemb/walmart Dc  
xxxxxxxxxxxx7508  
Walmart/GEMB  
PO Box 103104  
Roswell, GA 30076

Portfolio Rc  
ATTN: Bankruptcy  
120 Corporate Blvd. Ste 100  
Norfolk, VA 23502

Timothy James Burns  
709 W. Ave. I #40  
Nolanville, TX 76559

Gemb/walmart Dc  
xxxxxxxxxxxx5801  
Walmart/GEMB  
PO Box 103104  
Roswell, GA 30076

Ray Hendren  
3410 Far West Blvd. #200  
Austin, TX 78731

Us Dept Of Education  
xxxious  
Attn: Borrowers Service Dept  
PO Box 5609  
Greenville, TX 75403

Ginny's Inc  
xxxxxxxx7570  
1112 7th Ave.  
Monroe, WI 53566

Rjm Acquisitions Llc  
575 Underhill Blvd Ste 224  
Syosset, NY 11791

Wells Fargo Dealer Services  
xxxxxxxx4697  
PO Box 6700  
Rancho Cucamonga, CA 91729

Internal Revenue Service  
300 E 8th St.  
STOP 5026AUS  
Austin TX 78701-3233

Seventh Avenue  
1112 7th Ave  
Monroe, WI 53566

Williams & Fudge Inc  
xxx1032  
300 Chatham Ave  
Ste 201  
Rock Hill, SC 29730